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AMERICAN DISRESPECT FOR LAW

at Los Angeles began. Detective Burns convicted them in a magazine; intemperate defenders of unionism pronounced their arrest and trial the result of a conspiracy to crush the unions and asserted that they would be innocent in the eyes of labor even though convicted in court.

"If we are to have civilization we must try cases in the courts, not in public print. Why did the selection of jurors at Los Angeles drag along insufferably to anyone desirous that the law should act promptly as well as justly? Largely because public opinion had been prejudiced for or against the accused men. Freedom of the press in all essential respects must be upheld, but it must not become perverted to excuse such arguments as were made to the public before and during the legal trial of the McNamaras. In England such practices are forbidden. Discussion of a case pending in court is punished at once as contempt."

JOHN H. WIGMORE.

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In a recent interview in the New York World, Andrew D. White is reported as saying, "Ten years ago there were only one hundred and seventeen murders to the million (in the United States), to-day there are one hundred and twenty-six. Ten years ago one in every seventy-four cases was punished, to-day only one in eighty-six meets the penalty prescribed by law." The article then goes on to point out that in Canada—across an imaginary line—there are only seven murders to the million annually. Many writers in the pages of this JOURNAL and elsewhere have in similar manner compared our enforcement of the criminal law to that of England, and generally to our great disadvantage. The Honorable John L. Griffiths, consul-general of the United States to London, in an article written for the Indianapolis Star last fall made the same comparison and suggested some remedies with special reference to increasing the dignity of our courts. There seems to be little doubt that England accomplishes results that we do not.

The pages of magazines and newspapers are full of criticisms and suggestions for reform. It is the temptation of the critic to ascribe the whole difficulty to the one weak point which at the particular time occupies his attention. Realizing fully that the preceding statement may be applied to the argument which follows, the writer, nevertheless, wishes to argue that in the multitude of diverse criticisms there is danger of placing too little stress upon one of our greatest weaknesses.

It is not the intention here to deny the force of the criticisms aimed at our criminal procedure, at the quality of many of our judges, at the lack of activity of our poorly trained prosecuting officers, at the

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qualifications of our lawyers, or at our cumbersome and rigid system of courts. In fact it is believed that many of these criticisms are wholly just. It is desired only to call more particular attention to a defect which is less tangible, but for that reason none the less important—which is, indeed, for that very reason all the more difficult to remedy. It is a defect which legislation cannot reach.

Let us imagine, if we can, that by legislation all the good features of the English, or any other system suitable to our conditions, were to be suddenly inaugurated here. In other words, suppose that the machinery of administering the criminal law were made as perfect as possible. That of itself would not change the temper and spirit of the people back of the system. Such a change would aid the prosecuting officer who wished to enforce the law, but it would scarcely affect the prosecuting officer who did not care to enforce certain laws, either for personal or political reasons or because many influential voters did not wish the particular law enforced. Nor would a perfect system of procedure cause a jury, which deliberately wished to bring in a verdict against the law, to bring in a correct verdict. In other words, in seeking to reform the law we cannot justly overlook the fact that in too many cases the police do not want to arrest, the prosecutor does not want to prosecute, nor the jury to convict. Changes in legal forms will not cause a change in the heart of the citizen who deliberately disregards the law.

In an article written sometime ago for the Indianapolis Star, C. C. Hadley, former judge of the Indiana Appellate Court, argued that a large portion of the difference between American and British enforcement of the criminal law is to be attributed to the American citizen's lack of respect for the law. He says, "We are a nation of law-breakers, petty in most cases it may be true, but, nevertheless, violators of the law. * * * In some cases these violations are committed unknowingly, some designedly, some thoughtlessly, but all are traceable to our indifference and irreverence for enacted rules of conduct." In view of facts known to any alert observer, can it be denied that the average American citizen deliberately disregards many laws because they interfere with his desires, or his business, or with his idea of what is morally right? He does not seem to feel that law is entitled to obedience merely because it is law. It is an undeniable fact that laws passed for an entire state are almost completely disregarded in certain communities, because the people there do not wish these particular laws to be enforced. In homicide cases it is clear that many defendants are acquitted in spite of the fact that evidence of the killing is clear and that the law says the act is murder. They are acquitted by the jury because the jury, representing

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often the sentiment of the community, believes that a killing is justifiable in cases where the law says it is not. Much of our mob violence is seemingly due, not to the fact that the mob fears that the prisoner will not be prosecuted, but to the fact that the mob wishes to gratify its feelings by taking the enforcement of the law into its own hands, or to the fact that it feels that a legal hanging is too mild a punishment for certain offenses.

To many it seems a national menace that so many of our citizens should be so lacking in respect for constituted authority. The member of the mob who violates the law, the business man who disregards laws regulating the sale or manufacture of products in which he deals, the juryman who violates his oath and frees a defendant for reasons not recognized by the law, the saloonkeeper of many communities who seems to have forgotten that any law concerns him, the political worker, who for the sake of victory winks at all sorts of illegal practices—all these are responsible for fostering a growing spirit of defiance to any law which interferes with the desire of the moment. This feeling among the people influences the elected officer whose duty it is to enforce the law. In short, this feeling if allowed to grow will make unworkable any system of law, no matter how perfect in form, which depends for its enforcement upon elective prosecutors and judges and upon juries chosen from the citizenship.

It is not intended here to take up the question of how this evil can be combatted. Since it is an evil which neither legislation nor education in the ordinary sense can reach, it can easily be seen that the question of remedy is no easy one. However, it can be remedied, and forces are already at work which will in time, if encouraged, largely overcome this great weakness of our citizenship. At any rate it would seem to be a problem of sufficient importance to demand the serious thought of any citizen who wishes our institutions to endure.

CHESTER G. VERNIER.